

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

DMITRY MORCHIK,

Defendant.
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ORDER

No. 04-CR-123

BLOCK, Senior District Judge:

In a letter application dated June 21, 2006, defendant Dmitry Morchik ("Morchik") moved, through his attorney, the Court to clarify, in writing, the Court's findings at Morchik's sentencing hearing regarding the Government's allegation that Morchik made threats of violence, and thus was ineligible for a safety-valve reduction. *See* Letter by Albert Dayan (June 21, 2006). Furthermore, Morchik's attorney represents that the government has no objection to this clarification. *See id.*

To be eligible for a safety-valve reduction, the Court must find that "the defendant did not use violence or credible threats of violence." 18 U.S.C. § 3553(f)(2). Over the government's objection, the Court found that there was not sufficient evidence that the defendant had made threats of violence despite that the Presentence Investigation Report ("PSR") alleged that Morchik had "threatened" his associate. As the Court explained at the sentencing hearing:

[The facts alleged in the PSR are] kind of sketchy. I don't know what that means, whether he physically pulled him out of the restaurant or just two large guys came there and said we want the money back. I'm not satisfied that based upon that proffer

that . . . I would find that means that he's precluded from safety valve consideration.

Jan. 13, 2005 Tr. at 8. Accordingly, the Court held that the defendant Dmitry Morchik ("Morchik") was eligible for a safety-valve reduction of two levels, and sentenced him to twenty-eight months' imprisonment.

SO ORDERED.


FREDERIC BLOCK
United States Senior District Judge

Brooklyn, New York
June 23, 2006